

UNITED STATES DISTRICT COURT

for the

EASTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)	
)	Case No.: CR-21-198-01-RAW
Plaintiff,)	
v.)	Date: 02/17/2022
)	
JIMMY HOLMES NACE)	Time: 11:28 a.m. – 12:31p.m.
Defendant.)	

MINUTE SHEET - CRIMINAL PRETRIAL CONFERENCE

Ronald A. White, Judge T. Stephens, Deputy Clerk S. Ottwell, Court Reporter
Courtroom 2 - Room 224

Counsel for Plaintiff: Terry Cameron McEwen and Michael Warren, Asst. U.S. Attorneys
Counsel for Defendant: James Wesley Bryant, Asst. Federal Public Defender with Defendant

Minutes:

Comes on for Pretrial Conference. Court inquired if case was ready for trial. Counsel responded they are ready. Court inquired if discovery was complete. Government advised that all discovery had been provided, that Defendant made 2 additional requests today. Government does not currently have the records but will look into those items. Defendant agreed and advised that those 2 items may not exist. Court inquired regarding Stipulations. Government advised that there are 3 Stipulations. Defendant agreed. Further discussion regarding 911 call, DNA testing and cement bench chain of custody stipulations. Court directed that all Stipulations to be put writing and Counsel are to advise the Court which stipulations that are to be read to the jury. Court inquired regarding pre-admission of exhibits. Government advised that there are only 3 exhibits, crime scene photos, that they have not been able to agree upon. All others can be pre-admitted. Defendant agreed and advised they will discuss defendant's exhibits. Court directed Counsel to file a Notice regarding pre-admission of exhibits and Stipulations by Thursday, 2/24/2022. Discussion regarding Audio/Video media. Government advised they intend to play the clips provided, part 1 of the 911 call and may not play the statements. Government requested leave to submit an additional clip of 8/6/2019. GRANTED (RAW) Defendant advised that he does not anticipate objecting, but may file a Motion in Limine. Court directed Defendant to have that Motion filed by Tuesday, 2/22/2022. Court addressed Defendant's media. Parties consented to Magistrate Judge conducting jury selection submitted an executed consent form and Court accepted. Court advised it would allow 20 minutes each for opening statements. Government advised in their trial brief that they anticipate 4 days but now maybe only need 3 days for trial, Defendant agreed.

Discussion regarding bench conferences. Court instructed Defense Counsel to provide USMS with appropriate clothing for defendant for trial. Court went on to address evidentiary concerns, pending motions: Defendant's Motion in Limine (Dkt. No. 98); Government's Motion in Limine (Dkt. No. 130) Counsel responded; Defendant's Notice to Impeach (Dkt. No. 115), Counsel responded, Court construed Government's Response (Dkt. No. 129) as a Motion in Limine; Government's Notice Other Crimes, Wrongs, or Bad Acts (Dkt. No. 96) Counsel responded; Defendant's Motion in Limine Re: Crime Scene and Autopsy Photographs (Dkt. No. 135) Counsel responded. Court advised it would allow Bates number 63 and excluded Bates numbers 120 and 132. (WRITTEN ORDER TO FOLLOW as to all Motions) (RAW) Scheduling discussed. Defendant prefers to go 3/1/2022, 3/14/2022, will not be available 3/7/2022, 3/21/2022 (NDOK case set this case may be bumped), or first week of April. Government advised that their DNA expert has a conflict on 3/1/2022 and 3/17/2022 and 3/18/2022. Court addressed Speedy Trial. Defendant advised he will need to speak to his client and will get something filed. Court advised that it was looking at setting this case for trial on 3/29/2022 with jury selection to begin at 9:00 am and evidence to begin at 11:00 am or 11:30 am, but would not be giving a date certain today and hoped to get an order entered on Tuesday, 2/22/2022. Defense counsel to advise the Clerk regarding dates. Nothing further.

Adjourn.

Comes on for Pretrial Conference. Court inquired if case was ready for trial. Counsel responded they are ready. Court inquired if discovery was complete. Government advised that today defendant requested DHS records, they currently do not have any DHS records but would check and see if any exist. Defendant responded. Counsel to keep the Court posted. Court inquired regarding Stipulations. Government advised that they have agreed to the "standard" Stipulations. Defendant agreed. Court inquired regarding pre-admission of exhibits. Government advised they have discussed, have not agreed as of this time, but there may be some before trial. Defendant agreed and went on to advise that he needs to review the Government's media. Court directed Defendant to file a Notice advising the Court of any objections by Monday, 1/24/2022. Parties consented to Magistrate Judge conducting jury selection submitted an executed consent form and Court accepted. Court advised it would allow 20 minutes each for opening statements. Government advised that they anticipate 4-5 days, maybe less to try the case. Discussion regarding Government's expert witness. Discussion regarding bench conferences. Court instructed Defense Counsel to provide USMS with appropriate clothing for defendant for trial. Discussion regarding Government's 404b Notice and Defendant's objection. Court gave oral ruling on what it would allow the Government to introduce; Defendant's Motion to Exclude (Dkt. No. 73) granted in part and denied in part (RAW). Parties to submit a Proposed Order regarding testimony by Tuesday, 1/25/2022. Court inquired regarding evidentiary concerns. Discussion regarding Government's Expert Witness power point demonstrative aid, Defendant's expert and additional medical records not yet received. Discussion regarding Defendant's Notice of Scheduling Conflict. Court advised that it was looking at setting this case for trial on 2/1/2022 or 2/14/2022, would not be giving a date certain today for Jury Selection or Jury Trial but hoped to by today or tomorrow. Nothing further.

Adjourn.